

## MEMORANDUM

**FROM:** Paul Kugelman, Jr.  
Senior Assistant Attorney General

**DATE:** August 25, 2015

**RE:** Proposed Fast-track Regulation - 4 Va. Admin. Code § 25-35-120

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*Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this email contains the legal analysis of the individual staff member providing it.*

It is my view that the Department of Mines, Minerals and Energy (DMME) has the authority to promulgate this proposed amended regulation, which allows one who holds a valid general coal miner surface certification to be deemed to have met the regulatory requirements for a general mineral miner certification, under §§ 45.1-161.292(A)(5) and (C).

It is also my view that the Virginia Administrative Process Act, §§ 2.2-4000 to -4032, applies here. Further, as DMME is employing the fast-track rule making process set forth in § 2.2-4012.1, adopting this amendment through this process is subject to there being no objections as provided for in § 2.2-4012.1.

The foregoing conclusion is my own. It does not constitute an opinion, formal or informal, of the Attorney General.